

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

ARTHUR M. ALBIN  
General Attorney

13603  
RECORDATION NO. .... Filed 1425

214-651-6742

MAR 22 1982-3 15 PM

INTERSTATE COMMERCE COMMISSION 601-91

2-081A076

March 17, 1982

Ms. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, DC 20043

No. ....  
Date MAR 22 1982  
Fee \$ 50.00

ICC Washington, D. C.

Dear Ms. Mergenovich:

I have enclosed an original and three (3) counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Conditional Sale Agreement, a primary document, dated as of February 28, 1982.

The names and addresses of the parties to the document are as follows:

Vendor: Continental Assurance Company  
CNA Plaza, 41 S.  
Chicago, IL 60685

Vendee: Missouri-Kansas-Texas Railroad Company  
701 Commerce Street  
Dallas, TX 75202

A description of the equipment covered by the document follows:

Twelve (12) 3,000 hp Model GP 40 General Purpose Locomotives bearing Missouri-Kansas-Texas Railroad Company's road numbers 170 through 181.

A fee of \$50.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the undersigned for distribution to the parties.

March 17, 1982  
Ms. Agatha L. Mergenovich

Page Two

A short summary of the document to appear in the Index follows:

Conditional Sale Agreement between Continental Assurance Company, CNA Plaza, 41 S., Chicago, IL 60685, Vendor, and Missouri-Kansas-Texas Railroad Company, 701 Commerce Street, Dallas, TX 75202, Vendee, dated as of February 28, 1982, and covering twelve (12) 3,000 hp Model GP 40 General Purpose Locomotives bearing the vendee's road numbers 170 through 181.

Very truly yours,

MISSOURI-KANSAS-TEXAS RAILROAD  
COMPANY

A handwritten signature in cursive script, reading "Arthur M. Albin".

Arthur M. Albin  
General Attorney

AMA/bmw

Enclosures

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

ARTHUR M. ALBIN  
General Attorney

214-651-6742

March 16, 1982

2-081A076

In reply refer to: 601-91

No.

MAR 22 1982

Date

13603

RECORDATION NO. .... Filed 1425

Fee \$

50.00

MAR 22 1982-3 15 PM

Mr. Richard Streeter  
Wheeler & Wheeler  
1729 H Street, N.W.  
Washington, DC 20006

Washington, D. C.

INTERSTATE COMMERCE COMMISSION

Re: Conditional Sale Agreement dated as of  
February 28, 1982 covering purchase of  
twelve (12) 3,000 hp GP 40 General Purpose  
Locomotives by the Missouri-Kansas-Texas  
Railroad Company

Dear Richard:

I am presently enclosing four (4) copies of a Conditional  
Sale Agreement described above along with a cashier's check in  
the amount of \$50.00 payable to the ICC.

On your next trip to the ICC, or one of your associates,  
I would appreciate your having the Conditional Sale Agreement  
filed of record, returning the copies to me by Federal Express.

As usual I appreciate your assistance in these matters.

Yours very truly,

*Art Albin*

Arthur M. Albin

AMA/bmw

Enclosures

RECEIVED MAR 22 1982

*Counselor - Thomas J. Asator*

**Interstate Commerce Commission**

Washington, D.C. 20423

3/22/82

OFFICE OF THE SECRETARY

**Arthur M Albin, Gen. Atty.  
Missouri-Kansas- Texas RR. Co.  
701 Commerce Street  
Dallas, Texas 75202**

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **3/22/82** at **3:15pm**, and assigned re-recording number(s). **13603**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

MAR 22 1982 -3 15 PM  
INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

THIS AGREEMENT, dated as of February 28, 1982, by and between Continental Assurance Company, an Illinois insurance company, (hereinafter called the "Company"), and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a corporation organized under the laws of the State of Delaware, with an office in the City of Dallas, Texas (hereinafter called the "Railroad"),

W I T N E S S E T H

In consideration of the mutual promises, covenants and agreements hereinafter set forth the parties hereto do hereby agree as follows:

1. SALE. The Company will sell to the Railroad, and the Railroad will purchase from the Company twelve (12) 3,000 hp model GP 40 general purpose locomotives (the "Locomotives") bearing the Railroad's road numbers 170-181, subject to the terms and provisions set forth hereunder.

2. DELIVERY. The Company and the Railroad recognize that the Locomotives are in the Railroad's possession as of the date hereof and this Agreement contemplates no change in the possession of the Locomotives.

3. PURCHASE PRICE AND PAYMENT. The purchase price for each Locomotive shall be \$125,000 each, or a total of \$1,500,000, payable by the Railroad to the Company in One Hundred Nineteen (119) consecutive monthly installments in the amount of \$26,546.76 per month, and one final payment of \$26,565.36 payable on February 28, 1992, which sums include interest of Seventeen and One-half (17½%) percentage points per annum on the principal as agreed to between the parties hereto. Principal and interest payments per unit shall be set forth in Schedule A, attached hereto. The first installment shall be due and payable on the last day of March, 1982, with each subsequent monthly installment to be due and payable on the last day of each month.

The Railroad will pay, to the extent legally enforceable, interest at the rate of Eighteen and One-half (18.5%) percentage points per annum upon all such amounts remaining unpaid after the same became due and payable pursuant to the terms thereof.

In the event any payment required hereunder becomes due and payable on any Saturday, Sunday, or legal holiday, such installment shall be due and payable on the first business day following any such Saturday, Sunday, or legal holiday.

All installments provided for in this Agreement will be made by the Railroad in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

The Railroad shall have the right at any time to prepay all of the unpaid balance of principal due for each Locomotive upon giving thirty (30) days' written notice to the Company or its assignee, and upon the expiration of such notice the Railroad shall tender to Company at the next payment date an amount equal to the unpaid balance of principal then outstanding for each Locomotive as shown in Schedule A attached hereto multiplied by the appropriate multiplier (percentage) shown in Schedule B attached hereto.

4. TAXES. All payments to be made by the Railroad hereunder will be free of expenses to the Company for collection or other charges and of the amount of any local, state or federal taxes (other than Federal and State income and excess profits taxes) or licenses hereafter levied or imposed directly upon, or measured by, this Agreement and/or any sale, use, payment, shipment or delivery under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay in addition to the purchase price of the Locomotives. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Locomotives or for the use thereof or upon the earnings arising therefrom or the operation thereof or upon the Company by reason of its ownership thereof by any jurisdiction in which the Locomotives are operated by the Railroad and will keep at all times all and every part of the Locomotives free and clear of all taxes and assessments which might in any way affect the title of the Company. If any such expenses or taxes shall have been paid by the Company, the Railroad shall reimburse the Company on presentation of invoice, and any sums of money so paid by Company shall be secured by and under this contract.

5. TITLE TO THE EQUIPMENT. The Company shall and does hereby retain the full legal title to and property in the Locomotives until the Railroad shall

have made all of the payments and shall have kept and performed all of the covenants in this Agreement provided to be made, kept or performed by the Railroad notwithstanding the delivery of the Locomotives to and the possession and use thereof by the Railroad as herein provided. Any and all replacements of the Locomotives and of parts thereof or of any replacements thereof and additions thereto shall constitute accessions to the Locomotives and be subject to all the terms and conditions of this Agreement and included in the term "Locomotives" as used in this Agreement.

The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession and use of the Locomotives as herein provided, subject to the terms and conditions herein contained.

The Railroad will cause each Locomotive to be kept numbered with its identifying number and will keep and maintain, plainly, distinctly, permanently and conspicuously stenciled on each side of the Locomotives the name of the Company or of the Company's assignee, as the case may be, in letters of not less than one inch in height followed by the word "Owner." The Railroad will not change the numbers of the Locomotives without first notifying the Company in writing.

Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Locomotives or any replacements thereof as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Locomotives to be lettered with appropriate words or marks for convenience of identification of the Railroad's interest therein.

When and only when the Company has been paid the full purchase price of the Locomotives, together with interest and any and all other payments as herein provided, and all of the Railroad's covenants and conditions herein contained have been performed by the Railroad, absolute right to the possession of, title to and property in the Locomotives shall pass to and vest in the Railroad without further transfer or action on the part of the Company except that the Company will, if requested by the Railroad so to do, execute and deliver to the Railroad a bill of sale of the Locomotives transferring the title to and property in them to the Railroad free and clear of all interests, liens and encumbrances whatsoever, whether created or

retained hereby or otherwise, and will execute for record or for filing in public office such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Locomotives.

6. CASUALTY AND REPLACEMENT. In the event any Locomotive is lost, stolen or in the Railroad's opinion damaged beyond economic repair from any cause whatsoever until the total purchase price herein provided shall have been fully paid by the Railroad, the Railroad shall promptly and fully inform the Company in regard to such loss, destruction or irreparable damage. The Railroad shall promptly pay to the Company a sum equal to the remaining principal amount outstanding on the purchase price of such Locomotive or Locomotives as determined in accordance with Schedule A attached hereto and made a part hereof.

In the event Railroad pays the remaining principal amount due for each such lost, stolen, destroyed or irreparably damaged Locomotive, and upon the Railroad's tendering such payment to the Company, so long as Railroad is not then in default under the terms and provisions hereof, the Railroad shall be entitled to retain possession of any and all salvage, and title to property in any such Locomotive shall pass to vest in the Railroad without any further transactions or action on the part of the Company except that the Company will, if required by the Railroad so to do, execute and deliver to the Railroad a bill of sale of any such Locomotive and/or salvage and transfer the title thereto to the Railroad free and clear of all liens and encumbrances created or retained hereby and will execute for record or for filing in public officer such instrument or instruments in writing as may be necessary or applicable in order to make clear upon the public records the title of the Railroad to any such Locomotive or its salvage.

7. MAINTENANCE AND REPAIR. The Railroad shall, during the term of this Agreement keep and maintain the Locomotives in good working order and repair (ordinary wear and tear excepted) and certify when requested by the Company that such has been done, and shall make all replacements, changes or additions to the Locomotives or their equipment and appliances to the extent necessary or required from time to time (a) by the Code of Rules of the Association of American Railroads, and (b) by applicable laws and regula-



tions of any state or governmental body, including but not limited to the Interstate Commerce Commission; all at Railroad's own cost and expense and without any abatement in the installments due thereunder or other loss, cost or expense to the Company. Any parts, replacements, or additions made by the Railroad to any Locomotive shall be in accessions to such Locomotive and title thereto shall be immediately vested in the Company without cost or expense to the Company and shall become subject to the terms and provisions hereof.

Railroad further agree s that during the continuance of this Lease it will keep and maintain the Locomotives on a regular maintenance schedule in conformity with the Manufacturer's recommended Scheduled Maintenance Program for Model GP 40 Locomotives as in effect from time to time. On or before February 1 of each year, commencing in the year 1983, Railroad will furnish to Company a report certifying whether or not the provisions of this paragraph have been complied with during the preceding calendar year and also setting forth and, to the extent available, the miles operated by each Locomotive during such preceding calendar year and describing all major repairs made to each Locomotive during such year.

8. DISCLAIMER OF WARRANTIES. The Company and the Railroad acknowledge that the Company is not a manufacturer nor a dealer in property of such kind as the Locomotives. Railroad represents that it has fully inspected the Locomotives and acknowledges that the Locomotives are in good order and condition and are suitable for its purposes.

Each Locomotive is sold hereunder on an AS IS-WHERE,IS-BASIS, WITHOUT WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO (a) THE FITNESS OR MERCHANTABILITY OF THE LOCOMOTIVES OR (b) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE COMPANY AND THE RAILROAD ARE TO BE BORNE BY THE RAILROAD. The Company does warrant, however, that it has good title in and to the Locomotives and that the Company has not nor will not take any action which will adversely affect the Company's title in and to the Locomotives.

9. COMPLIANCE WITH LAWS, RULES AND REGULATIONS. Until the total purchase price herein provided for and all other sums of money payable

by the Railroad hereunder shall have been fully paid by the Railroad, the Railroad will comply in all respects with all laws of the United States and of the States and Territories in which its operations involving the Locomotives may extend, and with all lawful rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Locomotives. In the event that said laws or rules require the alteration of the Locomotives, the Railroad will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules until the total purchase price herein provided shall have been fully paid by the Railroad; provided, however, that the Railroad may, in good faith, contest in any reasonable manner the application of any such law or rule which does not, in the reasonable judgment of the Company, affect the Company's title in and to the Locomotives.

10. REPORTS AND INSPECTIONS. The Railroad will furnish to the Company, when requested and at least once in every year until the total purchase price herein provided shall have been fully paid by the Railroad, an accurate inventory of the Locomotives in actual service, the numbers and description of such Locomotives as may have been destroyed and replaced by others, and the then condition and state of repair of the Locomotives. The Railroad will also furnish such other information regarding the Locomotives as may be reasonably requested. In addition thereto, the Railroad will furnish to the Company, if requested, once in each year until the total purchase price herein provided shall have been fully paid by the Railroad, a report of inspection by an authorized representative of the Railroad, or, if the Company so requests, by a competent disinterested party satisfactory to the Company, certifying that said Locomotives have been maintained and are in good order and repair.

The Railroad will promptly and fully inform the Company of any loss or destruction of any of the Locomotives and of any substantial repairs made or being made upon them or any of them.

The Company may, but shall be under no obligation to, inspect the Locomotives at any reasonable time or times until the total purchase price herein provided has been fully paid by the Railroad.

11. POSSESSION AND USE. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession of the Locomotives and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, and the Locomotives may be used also upon connecting and other railroads and car ferries in the customary manner, but only upon and subject to all the terms and conditions of this Agreement. In addition, so long as Railroad shall not be in default under this Agreement or Agreement and Assignment, said Locomotives, or any of them, may be operated on the trackage of any other railroad within the boundaries of the continental United States for and in connection with unit train or run through operations or purposes, also subject however to all of the terms and conditions contained in this Agreement.

12. PROHIBITION AGAINST LIENS. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad and its successors or substitutes or assigns which, if unpaid, might become a lien or a charge upon the Locomotives, or any of them superior to the title of the Company therein, but shall not be required to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title of the Company in and to the Locomotives. The Railroad shall notify the Company of any contest it makes of any such charges, and, in the event the Company deems that its rights in the Locomotives may be jeopardized by such contest, the Railroad will, on the Company's demand, pay such contested charges with such reservation as may be appropriate. Any sum of money paid by the Company in discharge of liens or encumbrances on said Locomotives shall be an obligation of the Railroad and shall be secured by and under this contract.

13. RAILROAD'S INDEMNITIES AND GUARANTEES. The Railroad will save, indemnify and keep harmless the Company and any assignee from and against all losses, damages, injuries, claims and demands whatsoever, arising on account of the Locomotives or the use or operation thereof.

14. ASSIGNMENTS. All or any of the rights, benefits and advantages of the Company under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, and the rights of may be assigned by the Company and reassigned by any assignee at any time and from time to time.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all of the Company's right, title and interest in and to the Locomotives and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad hereunder shall to the extent so assigned, be made to the Assignee.

In the event of any such sale, transfer or assignment, or successive sales, transfers or assignments by the Company, of title to the Locomotives and of the Company's rights hereunder in respect thereof, the Railroad will, whenever requested by such vendee, transferee or assignee, change the stencil markings on each side of each of the Locomotives so as to indicate the title of such vendee, transferee or assignee to such Locomotives and its succession to the rights of the Company hereunder, such marking to bear such words or legend as shall be specified by said vendee, transferee or assignee, subject to requirements of the laws of the States in which the Locomotives shall be operated relating to such marking for use on equipment covered by conditional sale agreements relating to railroad equipment. The cost of stenciling in connection with any assignment will be borne by Company.

15. SUCCESSORS TO AND ASSIGNMENTS BY THE RAILROAD. The Railroad hereby represents and warrants that its execution of this Agreement and its assumption and undertaking of the obligations, duties, and liabilities hereof have been expressly authorized and that all of the obligations of the Railroad then existing or to accrue under this Agreement shall be assumed as a general obligation by any person or corporation acquiring title to or possession of the railways and properties of the Railroad, and that upon any sale, lease,

transfer or assignment of said railways or properties any person or corporation acquiring title thereto or possession thereof shall also, as a condition to such acquisition, be bound by all such obligations.

The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement nor transfer possession of said Locomotives to any other firm, person or corporation without first obtaining written consent of the Company to such sale, assignment or transfer.

16. DEFAULTS. In the event that any one or more of the following events of default shall occur, to-wit:

(a) the Railroad fails to pay in full when due any installment of principal or of interest at the time and in the manner hereinbefore contracted to be paid as provided in Article 3 hereof; or

(b) the Railroad shall, for more than thirty (30) days after the Company shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement on its part to be kept and performed; or

(c) a petition for reorganization under Subchapter IV of Chapter II of the Bankruptcy Code of 1978 as now constituted or as said Subchapter may be hereafter amended, is filed by or against the Railroad and the trustee or trustees fail to adopt this Agreement within sixty (60) days of the date of his or their appointment unless such petition is dismissed prior to the expiration of such sixty (60) days; or

(d) any proceedings are commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions other than a proceeding under Section 11361 of the Interstate Commerce Act and the trustee or trustees or receiver or receivers appointed for the Railroad or for its property in connection with such proceedings fail to adopt and assume and agree to perform the terms and obligations of this Agreement within sixty (60) days of the date of his or their appointment, unless such proceedings are dismissed prior to the expiration of such sixty (60) days; or

(e) the Railroad transfers its interest in or under this Agreement without the consent of the Company; or

(f) if the Railroad makes an assignment for the benefit of creditors.

then at any time after the occurrence of such an event of default the Company may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Company, declare the entire purchase price of the Locomotives, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter to the extent legally enforceable the entire sum shall bear interest at the rate of one and one-half percentage points per annum over the then current interest rate, and the Company shall be entitled to judgment for the whole amount so due from the Railroad with interest at said rate, together with costs and expenses incurred by Company or its assignee, including reasonable attorney's fees, and to collect said judgment out of any of the Railroad's property.

17. REMEDIES. If the Railroad makes default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default the Company may, without further notice or demand except to the extent necessary in order to comply with any legal requirements, take or cause to be taken by its agent or agents immediate possession of the Locomotives, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from the use and possession of the Railroad and for such purpose may enter upon the Railroad's premises where the Locomotives may be located, and may use and employ in connection with such removal any supplies, services and aids, and any available trackage and other facilities or means of the Railroad, with or without process of law; and the Railroad shall deliver the Locomotives with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places on its railroad as the Company shall desire to remove the same therefrom but not in excess of six (6) months. It is hereby expressly agreed by the Railroad that performance of this Agreement to deliver the Locomotives as hereinbefore provided is of the essence of the agreement between the parties

and that, upon application to any court of equity having jurisdiction in the premises, the Company shall be entitled to a decree against the Railroad requiring specific performance hereof. It is further expressly agreed by the Railroad that, until the Company shall have given notice of its election to retain possession of the Locomotives or until the sale of the Locomotives as hereinafter provided in this Article 17, the Railroad shall not be released from any of its obligations hereunder, including, but not by way of limitation, its obligations under Articles 4 and 7 hereof.

If the Railroad makes default, as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, the Company (after retaking possession of the Locomotives as is hereinbefore in this Article 17 provided) may at its election retain the Locomotives as its own and make such disposition thereof as the Company shall deem fit, and in such event all the Railroad's rights in the Locomotives will thereupon terminate and all payments made by the Railroad may be retained by the Company as compensation for the use of the Locomotives by the Railroad; or the Company, with or without retaking possession thereof, may, at its election, sell the Locomotives, or any of them, and any such replacements, improvements, equipment, attachments and accessories, free from any and all claims of the Railroad, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Company may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Company in taking possession of, removing, storing and selling the Locomotives, shall be credited on the amount due to the Company under the provisions of this Agreement, including taxes and other charges imposed upon the Company in connection with said Locomotives.

Written notice of the Company's election to retain the property for its own use may be given to the Railroad by telegram or registered mail addressed to the Railroad at 701 Commerce Street, Dallas, Texas 75202, at any time during a period of thirty (30) days after declaring the entire purchase price immediately due and payable as hereinbefore provided; and if

no such notice is given, the Company shall be deemed to have elected to sell the Locomotives in accordance with the provisions of this Article 17.

To the extent permitted by any such legal requirements, any sale hereunder may be held or conducted at such place or places and at such time or times as the Company may fix, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Company may determine in compliance with any such legal requirements, provided that the Railroad shall be given written notice of such sale as provided in any such applicable legal requirements, but in any event no less than ten (10) days prior thereto, by telegram or registered mail addressed to the Railroad at 701 Commerce Street, Dallas, Texas 75202. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, the Company may itself bid for and become the purchaser of the Locomotives, or any of them, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in the next to the last paragraph of this Article 17, and in payment of such purchase price the Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to the Company by the Railroad hereunder.

Each and every power or remedy hereby specifically given to the Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Company in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy, or shall be construed to be a waiver of any default or any acquiescence.



If, after applying all sums of money realized by the Company under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall and it hereby undertakes and promises to pay the amount of such deficiency, the Company may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Company, there shall remain a surplus in the possession of the Company, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable attorneys' fees and other reasonable expenses incurred by the Company in enforcing its remedies under the terms of this Agreement. In the event that the Company brings any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Company may recover reasonable attorneys' fees, and other reasonable expenses and the amount thereof shall be included in such judgment.

18. APPLICABLE STATE LAWS. Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

The Railroad, to the fullest extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of the Locomotives and to sell them and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Company's rights hereunder, except such notices as are expressly required by the terms of this Agreement, and any and all rights of redemption.

19. EXTENSION NOT A WAIVER. Any extension of time granted by the Company to the Railroad for the payment of any sum due under this Agreement, whether that extension be for an immediate payment or for final payment, shall not be

deemed a waiver of the title of the Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

20. RECORDING. The Railroad will cause this Agreement, any assignments hereof or of any interests herein and any supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file and record any and all further instruments required by law or reasonably requested by the Company for the purpose of proper protection, to the satisfaction of counsel for the Company, of its title to the Locomotives and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Company certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Company.

21. PAYMENT OF EXPENSES. The Railroad will pay all costs, taxes, charges and expenses, except the counsel fees of the Company, but including counsel fees of the first assignee, incident to the preparation, printing, execution, acknowledgment, filing, registering and recording of this Agreement and of the first assignment by the Company of title to the Locomotives and of any instrument supplemental hereto or amendatory hereof and of any declaration of the payment in full of the purchase money due hereunder, and of the replacement or replacements of said Locomotives.

22. OPINION OF COUNSEL. Upon the request of the Company or its assignee, at any time or times, the Railroad will deliver to the Company an Opinion of Counsel for the Railroad addressed to the Company or its assignee in form and substance satisfactory to Counsel for the Company, or its assignee, which opinion shall be to the effect that:

(a) the Railroad is a corporation duly organized and validly existing in good standing under the laws of the state of its incorporation and has corporate power to enter into this Agreement and carry out its obligations thereunder; and

(b) this Agreement constitutes the legal, valid and binding obligation of the Railroad, enforceable in accordance with its terms; and

(c) the Locomotives which are the subject of such opinion are held by the Railroad under and subject to the provisions of of this Agreement, prior to any lien, charge or encumbrance in favor of anyone claiming by, through or under the Railroad; and

(d) no recording, filing or depositing of this Agreement, other than with the Interstate Commerce Commission, in accordance with Section 11303 of the Interstate Commerce Act, is necessary and

(e) no governmental authorization or approval is necessary in connection with the Agreement or any other action contemplated hereunder.

23. FINANCIAL STATEMENTS. The Railroad agrees to maintain a standard and modern system of accounting in accordance with generally accepted principles of accounting and will furnish to the Company:

(a) as soon as available, and in any event within sixty (60) days after the close of each quarterly fiscal period of the Railroad, a copy of any quarter-annual financial report or statement filed by the Railroad with the Interstate Commerce Commission pursuant to any applicable laws or regulations as now or hereafter may be in effect; and

(b) as soon as available, and in any event within one hundred twenty (120) days after the close of each fiscal year of the Railroad, a copy of the annual audit report including balance sheet, retained income analysis and profit and loss statement) of the Railroad showing in comparative form the figures for the previous fiscal year, all as prepared and certified by independent public accountants of recognized standing; and

(c) as soon as available, and in any event within sixty (60) days after the close of each quarterly fiscal period of the Railroad (except the last), a balance sheet of Railroad as

of the end of such quarter-annual period and a retained income analysis and a profit and loss statement of Railroad for the portion of its fiscal year ended on the date of said balance sheet, prepared and certified to by the principal accounting officer of the Railroad.

24. NOTICE. Any notice hereunder to the Railroad shall be deemed to be properly served if delivered or mailed to the Railroad at 701 Commerce Street, Dallas, Texas 75202, or at such other address as may have been furnished in writing to the Company by the Railroad. Any notice hereunder to the Company shall be deemed to be properly served if delivered or mailed to the Company at CNA Plaza, Chicago, IL 60685, ATTN. Investment Dept./Private Placements 41 S., or at such other address as may have been furnished in writing to the Railroad by the Company. Any notice hereunder to any assignee of the Company or of the Railroad shall be deemed to be properly served if delivered or mailed to such assignee at such address as may have been furnished in writing to the Company or the Railroad, as the case may be, by such assignee.

25. EXECUTION OF COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together will constitute but one and the same contract, which will be sufficiently evidenced by any such original counterpart.

26. ARTICLE HEADINGS. All article, paragraph or division headings are inserted for convenience only and will not affect any construction or interpretation of this Agreement.

27. EFFECT AND MODIFICATION OF AGREEMENT. This Agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between the Railroad and the Company with respect to the sale of the Locomotives herein referred to. No variation or modification of this Agreement and no waiver of any of its provisions or conditions will be valid unless in writing and signed by the duly authorized officers of the Company and the Railroad.

28. LAW GOVERNING. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois or applicable federal law which may supercede law.

IN WITNESS WHEREOF, has caused these presents to be executed and its seal to be affixed by its duly elected and authorized officers pursuant to lawful resolutions; and Missouri-Kansas-Texas Railroad Company has caused these presents to be executed and its seal to be affixed by its duly elected and authorized officers pursuant to lawful resolutions, all as of the day, month and year first above written.

CONTINENTAL ASSURANCE COMPANY

By *Phil C. Ryan*  
Vice President

ATTEST:

*Wayne R. Gulger*  
Assistant Secretary

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By *Janet R. Rubin*  
Vice President

ATTEST:

*A. M. Allen*  
Assistant Secretary

STATE OF ILLINOIS )  
 ) ss:  
COUNTY OF COOK )

On this 18<sup>th</sup> day of March, 1982, before me personally appeared Donald C. Rycroft, to me personally known, who being by me duly sworn, says that he is a Vice President of CONTINENTAL ASSURANCE COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Barbara Kray

Notary Public in and for Cook County,  
Illinois

My Commission expires: NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXPIRES JUNE. 27 1982  
ISSUED THRU ILLINOIS NOTARY ASSOC.

STATE OF TEXAS

On this 17<sup>th</sup> day of March, 1982, before me personally appeared KARL R. ZIEBARTH, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth Murdoch

Notary Public in and for the State of  
Texas

My Commission expires: 12-31-84



SCHEDULE A  
TO  
Conditional Sale Agreement between  
and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY  
dated as of February 28, 1982

AMORTIZATION FOR

AMOUNT OF BORROWED MONEY 125000.00  
ANNUAL INTEREST RATE 0.1750000  
AMOUNT OF PAYMENT 2212.23  
NO. OF MONTHLY PAYMENTS 120  
MONTH & YEAR OF FIRST PAYMENT 3 82

\*\*\*\*\*

PER. MONTH	YEAR	BEG. BALANCE	PAYMENT	INTEREST	PRINCIPAL	
=====	=====	=====	=====	=====	=====	
1	3	82	125000.00	2212.23	1822.92	389.31
2	4	82	124610.69	2212.23	1817.24	394.99
3	5	82	124215.70	2212.23	1811.48	400.75
4	6	82	123814.95	2212.23	1805.63	406.60
5	7	82	123408.35	2212.23	1799.71	412.52
6	8	82	122995.83	2212.23	1793.69	418.54
7	9	82	122577.29	2212.23	1787.59	424.64
8	10	82	122152.65	2212.23	1781.39	430.84
9	11	82	121721.81	2212.23	1775.11	437.12
10	12	82	121284.69	2212.23	1768.74	443.49

INTEREST PAID DURING YEAR 17963.50  
PRINCIPAL REPaid DURING YEAR 4158.80

11	1	83	120844.20	2212.23	1762.27	449.96
12	2	83	120391.24	2212.23	1755.71	456.52
13	3	83	119934.72	2212.23	1749.05	463.18
14	4	83	119471.54	2212.23	1742.29	469.94
15	5	83	119001.60	2212.23	1735.44	476.79
16	6	83	118524.81	2212.23	1728.49	483.74
17	7	83	118041.07	2212.23	1721.43	490.80
18	8	83	117550.27	2212.23	1714.27	497.96
19	9	83	117052.31	2212.23	1707.01	505.22
20	10	83	116547.09	2212.23	1699.65	512.58
21	11	83	116034.51	2212.23	1692.17	520.06
22	12	83	115514.45	2212.23	1684.59	527.64

INTEREST PAID DURING YEAR 20692.37  
PRINCIPAL REPaid DURING YEAR 5854.39

23	1	84	114986.81	2212.23	1676.89	535.34
24	2	84	114451.47	2212.23	1669.08	543.15
25	3	84	113908.32	2212.23	1661.16	551.07
26	4	84	113357.25	2212.23	1653.13	559.10
27	5	84	112798.15	2212.23	1644.97	567.26
28	6	84	112230.89	2212.23	1636.70	575.53
29	7	84	111655.36	2212.23	1628.31	583.92
30	8	84	111071.44	2212.23	1619.79	592.44
31	9	84	110479.00	2212.23	1611.15	601.08
32	10	84	109877.92	2212.23	1602.39	609.84
33	11	84	109268.08	2212.23	1593.49	618.74
34	12	84	108649.34	2212.23	1584.47	627.76

INTEREST PAID DURING YEAR	19581.53
PRINCIPAL REPAID DURING YEAR	6965.23

35	1	85	108021.58	2212.23	1575.31	636.92
36	2	85	107384.66	2212.23	1566.03	646.20
37	3	85	106738.46	2212.23	1556.60	655.63
38	4	85	106082.83	2212.23	1547.04	665.19
39	5	85	105417.64	2212.23	1537.34	674.89
40	6	85	104742.75	2212.23	1527.50	684.73
41	7	85	104058.02	2212.23	1517.51	694.72
42	8	85	103363.30	2212.23	1507.38	704.85
43	9	85	102658.45	2212.23	1497.10	715.13
44	10	85	101943.32	2212.23	1486.67	725.56
45	11	85	101217.76	2212.23	1476.09	736.14
46	12	85	100481.62	2212.23	1465.36	746.87

INTEREST PAID DURING YEAR	18259.93
PRINCIPAL REPAID DURING YEAR	8286.83

47	1	86	99734.75	2212.23	1454.47	757.76
48	2	86	98976.99	2212.23	1443.41	768.82
49	3	86	98208.17	2212.23	1432.20	780.03
50	4	86	97428.14	2212.23	1420.83	791.40
51	5	86	96636.74	2212.23	1409.29	802.94
52	6	86	95833.80	2212.23	1397.58	814.65
53	7	86	95019.15	2212.23	1385.70	826.53
54	8	86	94192.62	2212.23	1373.64	838.59
55	9	86	93354.03	2212.23	1361.41	850.82
56	10	86	92503.21	2212.23	1349.01	863.22
57	11	86	91639.99	2212.23	1336.42	875.81
58	12	86	90764.18	2212.23	1323.64	888.59

INTEREST PAID DURING YEAR	16687.60
PRINCIPAL REPAID DURING YEAR	9859.16

59	1	87	89875.59	2212.23	1310.69	901.54
60	2	87	88974.05	2212.23	1297.54	914.69
61	3	87	88059.36	2212.23	1284.20	928.03
62	4	87	87131.33	2212.23	1270.67	941.56
63	5	87	86189.77	2212.23	1256.93	955.30
64	6	87	85234.47	2212.23	1243.00	969.23
65	7	87	84265.24	2212.23	1228.87	983.36
66	8	87	83281.88	2212.23	1214.53	997.70
67	9	87	82284.18	2212.23	1199.98	1012.25
68	10	87	81271.93	2212.23	1185.22	1027.01
69	11	87	80244.92	2212.23	1170.24	1041.99
70	12	87	79202.93	2212.23	1155.04	1057.19

INTEREST PAID DURING YEAR	14816.91
PRINCIPAL REPAID DURING YEAR	11729.85

71	1	88	78145.74	2212.23	1139.63	1072.60
72	2	88	77073.14	2212.23	1123.98	1088.25
73	3	88	75984.89	2212.23	1108.11	1104.12
74	4	88	74880.77	2212.23	1092.01	1120.22
75	5	88	73760.55	2212.23	1075.67	1136.56
76	6	88	72623.99	2212.23	1059.10	1153.13
77	7	88	71470.86	2212.23	1042.28	1169.95



78	8	88	70300.91	2212.23	1025.22	1187.01
79	9	88	69113.90	2212.23	1007.91	1204.32
80	10	88	67909.58	2212.23	990.35	1221.88
81	11	88	66687.70	2212.23	972.53	1239.70
82	12	88	65448.00	2212.23	954.45	1257.78

INTEREST PAID DURING YEAR	12591.24
PRINCIPAL REPAID DURING YEAR	13955.52

83	1	89	64190.22	2212.23	936.11	1276.12
84	2	89	62914.10	2212.23	917.50	1294.73
85	3	89	61619.37	2212.23	898.62	1313.61
86	4	89	60305.76	2212.23	879.46	1332.77
87	5	89	58972.99	2212.23	860.02	1352.21
88	6	89	57620.78	2212.23	840.30	1371.93
89	7	89	56248.85	2212.23	820.30	1391.93
90	8	89	54856.92	2212.23	800.00	1412.23
91	9	89	53444.69	2212.23	779.40	1432.83
92	10	89	52011.86	2212.23	758.51	1453.72
93	11	89	50558.14	2212.23	737.31	1474.92
94	12	89	49083.22	2212.23	715.80	1496.43

INTEREST PAID DURING YEAR	9943.33
PRINCIPAL REPAID DURING YEAR	16603.43

95	1	90	47586.79	2212.23	693.97	1518.26
96	2	90	46068.53	2212.23	671.83	1540.40
97	3	90	44528.13	2212.23	649.37	1562.86
98	4	90	42965.27	2212.23	626.58	1585.65
99	5	90	41379.62	2212.23	603.45	1608.78
100	6	90	39770.84	2212.23	579.99	1632.24
101	7	90	38138.60	2212.23	556.19	1656.04
102	8	90	36482.56	2212.23	532.04	1680.19
103	9	90	34802.37	2212.23	507.53	1704.70
104	10	90	33097.67	2212.23	482.67	1729.56
105	11	90	31368.11	2212.23	457.45	1754.78
106	12	90	29613.33	2212.23	431.86	1780.37

INTEREST PAID DURING YEAR	6792.93
PRINCIPAL REPAID DURING YEAR	19753.83

107	1	91	27832.96	2212.23	405.90	1806.33
108	2	91	26026.63	2212.23	379.56	1832.67
109	3	91	24193.96	2212.23	352.83	1859.40
110	4	91	22334.56	2212.23	325.71	1886.52
111	5	91	20448.04	2212.23	298.20	1914.03
112	6	91	18534.01	2212.23	270.29	1941.94
113	7	91	16592.07	2212.23	241.97	1970.26
114	8	91	14621.81	2212.23	213.23	1999.00
115	9	91	12622.81	2212.23	184.08	2028.15
116	10	91	10594.66	2212.23	154.51	2057.72
117	11	91	8536.94	2212.23	124.50	2087.73
118	12	91	6449.21	2212.23	94.05	2118.18

INTEREST PAID DURING YEAR	3044.83
PRINCIPAL REPAID DURING YEAR	23501.93

119	1	92	4331.03	2212.23	63.16	2149.07
-----	---	----	---------	---------	-------	---------

120

2

92

2181.96

2213.78

31.82

2181.96

INTEREST PAID DURING YEAR  
PRINCIPAL REPAID DURING YEAR

94.98  
4329.48

SCHEDULE B TO AGREEMENT BETWEEN CONTINENTAL ASSURANCE COMPANY AND  
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY DATED AS OF FEBRUARY 28,  
1982

Multipliers applicable to pre-payment of unpaid balances of principal

<u>PERIOD OF TIME IN WHICH PRE-PAYMENT IS MADE</u>	<u>MULTIPLIER</u>
March 1, 1982 - February 28, 1983	110 per cent
March 1, 1983 - February 29, 1984	109 per cent
March 1, 1984 - February 28, 1985	108 per cent
March 1, 1985 - February 28, 1986	107 per cent
March 1, 1986 - February 28, 1987	106 per cent
March 1, 1987 - February 29, 1988	105 per cent
March 1, 1988 - February 28, 1989	104 per cent
March 1, 1989 - February 28, 1990	103 per cent
March 1, 1990 - February 28, 1991	102 per cent
March 1, 1991 - February 28, 1992	101 per cent
March 1, 1992 - February 28, 1993	100 per cent

Pre-payment of unpaid principal for each Locomotive shall be determined by multiplying the applicable multiplier shown above for the time period in which the pre-payment is made times the applicable unpaid balance as shown on Schedule A.